

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

THOMAS N. WILLIAMS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CIV-11-225-C
	)	
JUSTIN JONES, et al.,	)	
	)	
Defendants.	)	

ORDER AFFIRMING REPORT AND RECOMMENDATION

This civil rights action brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Gary M. Purcell, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation (“R&R”) on November 1, 2011, to which Plaintiff has timely objected. The Court therefore considers the matter de novo.

The bulk of Plaintiff’s objection is that Defendant Garza should not be granted dismissal or judgment at this stage of the case. What his objection ignores, however, is that Defendant Garza has not been served, has not moved for dismissal or judgment, and no disposition of his claim against her is announced in the R&R. To this extent, then, his objection is moot. In all other respects, his objections are without merit and are overruled.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 63), and for the reasons announced therein, the Motion to

Dismiss (Dkt. No. 29) by Defendants Jones, Suttmiller, McCoy, and Carter is GRANTED and Plaintiff's cause of action against these Defendants is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted; the Motion to Dismiss (Dkt. No. 54) by Defendant Troutt is GRANTED with respect to Plaintiff's claims against Defendant Troutt in his official capacity and the Motion for Summary Judgment (Dkt. No. 54) by Defendant Troutt is GRANTED with respect to Plaintiff's Eighth Amendment claim against Defendant Troutt. This matter, including the recently filed Notice (Dkt. No. 69), is recommitted to the Magistrate Judge under the original order of referral.

IT IS SO ORDERED this 29th day of December, 2011.

  
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ROBIN J. CAUTHRON  
United States District Judge